

SDR-922-93-01
I-5-IND-4907
3165.3 (922.5)

OCT 27 1992

CERTIFIED MAIL - RETURN RECEIPT REQUESTED 114 728

DECISION

Mr. W.F. Sheehan, III)	
Northland Royalty Operating Co)	SDR No 922-93-01
3030 4th Avenue North)	
Billings, Montana 59101)	

REVERSED

Northland Royalty Operating Company (NROC) requested a State Director Review (SDR) on October 14, 1992, on the basis that when two Incidents of Noncompliance (INC), assessing NROC \$500 per incident, were issued by the Great Falls Resource Area Office (GFRA) on September 17, 1992, NROC was not the operator of record in the BLM files for the two wells in question. The INCs were issued for failure to timely correct a previous INC issued on August 24, 1992, requiring the replacement of one broken indicating thermometer on the Tribal 1-22 in Section 22 and installation of a missing indicating thermometer on the Tribal 3-27 in Section 27, all in Township 36 North, Range 6 West. These wells are located on Indian Tribal oil and gas lease No. 1-5-IND-4907.

The request for an SDR was timely received on October 15, 1992 (Enclosure 1)

On August 24, 1992, the GFRA issued an INC under 43 CFR 3162.7-3 and Onshore Oil and Gas Order No. 5, Section C (7) requiring NROC to replace one broken indicating thermometer on the Tribal 1-22 in Section 22 and installation of a missing indicating thermometer on the Tribal 3-27 in Section 27. The NROC received the INC on August 26, 1992, and the corrective action was to be completed by September 4, 1992. On September 17, 1992, the GFRA issued two \$500 assessments to NROC for failure to comply with an order of the authorized officer and issued these assessments under 43 CFR 3163.1(a).

The NROC argues that since NROC was not the operator of record on file in the BLM casefiles for the two wells in question, the INCs should have been issued to Phillips Petroleum Company (Phillips), and not NROC.

A review of the records show that Cavalier Petroleum was the designated operator assigned by Phillips on July 17, 1985, to conduct operations on Indian oil and gas lease No. I-5-IND-4907. Cavalier Petroleum had been

submitting Monthly Report of Operations (MRO) to the Minerals Management Service (MMS), through February 1990, and was also recorded in the BLM's Automated Inspection and Records System as operator. The records show that NROC has been submitting MROs to the MMS since March 1990, to the present, as operator. However, we can find no record in the well files which show that NROC was ever designated by Phillips as operator for these wells.

The regulations under 43 CFR 3162.3(a), require that whenever a change of operator occurs, the authorized officer shall be notified promptly in writing. Until the BLM is notified by the operator stating that they have been designated as the new operator by the lessees of record on the Indian lease, NROC should not be allowed to conduct operations on the lease. Therefore, the two INCs issued by the GFRA should have been sent to Cavalier Petroleum.

The INCs issued by the GFRA to assess two \$500 assessments to NROC for failure to comply with an order of the authorized officer are hereby reversed. However, you are not permitted to operate these wells as an operator until you submit a designation of operator signed by the lessees of record on the Indian lease to the BLM designating, NROC, as operator.

This Decision may be appealed to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR 4.400 and Form 1842-1 (Enclosure 2). If an appeal is taken, a Notice of Appeal must be filed in this office at the aforementioned address within 30 days from receipt of this Decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. The appellant has the burden of showing that the decision appealed from is in error.

/s/ Thomas P. Lonnie

Thomas P. Lonnie
Deputy State Director
Division of Mineral Resources

2 Enclosures

- 1-NROC SDR dated October 14, 1992 (~~2~~⁵ pp)
- 2-Form 1842-1 (1p)

cc: (w/encls.)

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